



FEDERAL UTILITY PARTNERSHIP WORKING GROUP - Utility Interconnection Panel



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SCENARIO: Fed Agencies had Solar PV Projects To Connect with Utility in California

- **United States (US) Forest Service (FS)**
 - 1 small Solar Photovoltaic (PV) project; and
 - 1 small Renewable project (Solar PV) exporting energy to grid.
- **U.S. National Park Service (NPS)**
 - 24 Small Solar Photovoltaic projects.
- **U.S. Dept. of Veterans Affairs (VA)**
 - 6 Renewable generation projects of different sizes.



FS Region 5 (California) - Solar Photovoltaic Installations



Solar PV Project
@ Mono Lake
Visitor Center
(Inyo NF)

Solar PV Project
(net exporter) @
San Dimas
Technology and
Development
Center



SITUATION – Utility Wanted Feds to Sign Its Agreement(s), But There Were A Few Issues...

- Sovereign Immunity;
- Fed Law vs. State Law;
- State Taxes;
- Regulations;
- Length of Agreement;
- Indemnity, Liability, & Insurance Clauses;
- Media; and
- Congress.





ISSUES - First Hurdle — Fed Govt is a Sovereignty



- The Fed Govt has Sovereign Immunity. This doctrine exempts the Govt from lawsuits—unless waived by the Govt, for, example, claims based on contracts. Fed Govt may specify the conditions under which a Waiver of Immunity will be effective such as Court of Claims, and only IAW the U.S. Constitution.



ISSUES (CON'TD)

- **Governing Law Provisions -**
 - Investor Owned Utilities regulated by the **State** in which they operate. Fed Govt follows **Federal Law**.
- **State Taxes -**
 - Utility Agreement provided for State Taxes. Fed Govt and its Agencies and Property are **immune** from State and Local taxation, under the “Supremacy” Clause of the Constitution.



ISSUES (CON'TD)

- **Regulations -**
 - Calif Utilities have “**Rule 21;**” Fed Govt has **FAR**—including FAR 41 – “Acquisition of Utility Services.”
- **Length of Agreements/Contracts -**
 - Utility Agreement had **25-year** term. Fed Govt cannot exceed **10 years** due to FAR 41.205(d).
- **Indemnity, Liability, and Insurance Clauses -**
 - Fed Govt cannot indemnify Utility without Act of Congress; No Insurance limits possible because of **Anti-Deficiency Act.**



ISSUES (CON'TD)

- **Media Exposure - One Example -**

- 9 Jan 2012 **LA Times Article** reported FS and NPS could not secure Interconnection Agreement.

The screenshot shows a web browser window with the URL <http://articles.latimes.com/2012/jan/09/local/la-me-parke-solar-20120109>. The page features a top navigation bar with links for Membership Services, Jobs, Cars, Real Estate, Subscribe, Rentals, Classifieds, Custom Publishing, and Place Ad. The main header is the Los Angeles Times logo, followed by a navigation menu with categories like LOCAL, U.S., WORLD, BUSINESS, SPORTS, ENTERTAINMENT, HEALTH, LIVING, TRAVEL, OPINION, and DEALS. Below the menu is a search bar and a breadcrumb trail: YOU ARE HERE: LAT Home → Collections → News. The article content includes a sub-header 'Renewable energy projects in California go unused', a lead paragraph stating 'Millions of dollars in projects intended to provide power to facilities in the state's national parks and forests are sitting idle because of a years-long squabble with Southern California Edison.', the date 'January 09, 2012', and the author 'By Julie Cart, Los Angeles Times'. A large advertisement for 'Fab. is Everyday Design.' is visible on the left side of the page.

ISSUES (CON'TD)

- **Congress** –
 - **Senator Dianne Feinstein (D-Calif) and Senator Barbara L. Boxer (D-Calif)** sent inquiries to the Forest Service (FS).
 - **Rep. Edward J. Markey (D-Mass) & Committee on Natural Resources** sent Letter to FS & Department of Interior (DOI) with copies to DOE, VA, and GSA.



RESOLUTION - *“Big Meeting”*

- **18 Jan 2012 Meeting – Attending were:**
 - A Representative from Senator Boxer;
 - Senior Advisor to the Calif Governor, Renewable Energy Facilities (the Host);
 - Calif Public Utilities Commission (CPUC);
 - Southern California Edison (SCE); and
 - Fed Agencies: GSA, FS, NPS, & VA.
 - Senator Feinstein’s Office – told outcome.
 - **Majority of attendees was engaged and committed to finding solutions.**



RESOLUTION – *Negotiations*

- GSA Negotiated a **new Exhibit D** to their Areawide Agreement with Utility, specifically for Fed Govt Interconnection Agreements.
- FS & Utility Negotiated and **Deviations to its Tariffs** for the Govt only, was filed with CPUC:
 - Identified **10-year term** of the Agreement;
 - Modified **Liability**, Deleted **Indemnification**, & Removed **Insurance** in recognition of Anti-Deficiency Act, 31 U.S.C. 1341; and
 - Revised **Governing Law** language that worked for both Fed and State.



RESULTS – Savings!

- Based on Nameplate Rating, the following is an estimate regarding production of the facilities:
 - **USFS - 473,000 kWh/annually;**
 - **NPS - 528,000 kWh/annually; &**
 - **VA - 2,996,000 kWh/annually.**
- Money\$ and Energy Will Be Saved.**



RESULTS – My Lessons Learned...

- Be **Very** Patient/Work as a Team;
- Difference between “wholesale” and “retail” sides of a Utility;
- Contracting Vehicle Can Make a Difference (UESC, ESPC, GSA);
- RECs- To Give or Not to Give;
- Other Contract Issues with Delay in Utility Agreement—more Costs to Prime contractor and subs, Perform & Pay Bonds, etc.





Questions?

